



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R04-OAR-2012-0814; FRL– 9757-7]**

**Approval and Promulgation of Implementation Plans; Region 4 States; Section  
110(a)(2)(D)(i)(II) Infrastructure Requirement for the 1997 and 2006 Fine Particulate  
Matter National Ambient Air Quality Standards**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to conditionally approve submissions from Kentucky, North Carolina and Tennessee for inclusion into each states' State Implementation Plan (SIP). This proposal addresses the Clean Air Act (CAA) requirements pertaining to prevention of significant deterioration (PSD) for the 1997 annual and 2006 24-hour fine particulate matter (PM<sub>2.5</sub>) National Ambient Air Quality Standards (NAAQS) infrastructure SIPs. The CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an "infrastructure" SIP. EPA is proposing to conditionally approve the submissions for Kentucky, North Carolina and Tennessee that relate to adequate provisions prohibiting emissions that interfere with any other state's required measures to prevent significant deterioration of its air quality. The subject of this notice is limited to infrastructure provisions prohibiting emissions that interfere with any other state's required measures to prevent significant deterioration of its air quality. All other applicable infrastructure elements for these states are being addressed in separate rulemakings.

**DATES:** Written comments must be received on or before [insert date 30 days after date of publication in the Federal Register].

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2012-0814, by one of the following methods:

1. [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
2. E-mail: [R4-RDS@epa.gov](mailto:R4-RDS@epa.gov).
3. Fax: (404) 562-9019.
4. Mail: "EPA-R04-OAR-2012-0814," Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.
5. Hand Delivery or Courier: Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA-R04-OAR-2012-0814. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through

[www.regulations.gov](http://www.regulations.gov) or e-mail, information that you consider to be CBI or otherwise protected.

The [www.regulations.gov](http://www.regulations.gov) website is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA’s public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

*Docket:* All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index.

Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9043. Mr. Lakeman can be reached via electronic mail at [lakeman.sean@epa.gov](mailto:lakeman.sean@epa.gov).

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## **I. Background**

On July 18, 1997 (62 FR 38652), EPA established an annual PM<sub>2.5</sub> NAAQS at 15.0 micrograms per cubic meter (µg/m<sup>3</sup>) based on a 3-year average of annual mean PM<sub>2.5</sub> concentrations. At that time, EPA also established a 24-hour NAAQS of 65 µg/m<sup>3</sup>. *See* 40 CFR 50.7. On October 17, 2006 (71 FR 61144), EPA retained the 1997 annual PM<sub>2.5</sub> NAAQS at 15.0 µg/m<sup>3</sup> based on a 3-year average of annual mean PM<sub>2.5</sub> concentrations, and promulgated a new

24-hour NAAQS of  $35 \mu\text{g}/\text{m}^3$  based on a 3-year average of the 98th percentile of 24-hour concentrations. By statute, SIPs meeting the requirements of sections 110(a)(1) and (2) are to be submitted by states within three years after promulgation of a new or revised NAAQS. Sections 110(a)(1) and (2) require states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance of the NAAQS. States were required to submit such SIPs to EPA no later than July 2000 for the 1997 annual  $\text{PM}_{2.5}$  NAAQS, and no later than October 2009 for the 2006 24-hour  $\text{PM}_{2.5}$  NAAQS.

On March 4, 2004, Earthjustice submitted a notice of intent to sue related to EPA's failure to issue findings of failure to submit related to the "infrastructure" requirements for the 1997 annual  $\text{PM}_{2.5}$  NAAQS. On March 10, 2005, EPA entered into a consent decree with Earthjustice which required EPA, among other things, to complete a Federal Register notice announcing EPA's determinations pursuant to section 110(k)(1)(B) as to whether each state had made complete submissions to meet the requirements of section 110(a)(2) for the 1997  $\text{PM}_{2.5}$  NAAQS by October 5, 2008. In accordance with the consent decree, EPA made completeness findings for each state based upon what the Agency received from each state for the 1997  $\text{PM}_{2.5}$  NAAQS as of October 3, 2008.

On October 22, 2008, EPA published a final rulemaking entitled "Completeness Findings for Section 110(a) State Implementation Plans Pertaining to the Fine Particulate Matter ( $\text{PM}_{2.5}$ ) NAAQS" making a finding that each state had submitted or failed to submit a complete SIP that provided the basic program elements of section 110(a)(2) necessary to implement the 1997  $\text{PM}_{2.5}$  NAAQS. *See* 73 FR 62902. For those states that did receive findings, the findings of failure to submit for all or a portion of a state's implementation plan established a 24-month deadline for

EPA to promulgate a Federal Implementation Plan (FIP) to address the outstanding SIP elements unless, prior to that time, the affected states submitted, and EPA approved, the required SIPs.

The findings that all or portions of a state's submission are complete established a 12-month deadline for EPA to take action upon the complete SIP elements in accordance with section 110(k). Kentucky, North Carolina and Tennessee's infrastructure submissions were received by EPA on August 26, 2008, April 1, 2008, and December 14, 2007, respectively, for the 1997 annual PM<sub>2.5</sub> NAAQS and on July 17, 2012<sup>1</sup>, September 21, 2009, and October 19, 2009, respectively, for the 2006 24-hour PM<sub>2.5</sub> NAAQS. Kentucky, North Carolina and Tennessee were among other states that did not receive findings of failure to submit because they had provided a complete submission to EPA to address the infrastructure elements for the 1997 PM<sub>2.5</sub> NAAQS by October 3, 2008.

On July 6, 2011, WildEarth Guardians and Sierra Club filed an amended complaint related to EPA's failure to take action on the SIP submittal related to the "infrastructure" requirements for the 2006 24-hour PM<sub>2.5</sub> NAAQS. On October 20, 2011, EPA entered into a consent decree with WildEarth Guardians and Sierra Club which required EPA, among other things, to complete a Federal Register notice of the Agency's final action either approving, disapproving, or approving in part and disapproving in part the Kentucky, North Carolina and Tennessee's 2006 24-hour PM<sub>2.5</sub> NAAQS Infrastructure SIP submittals addressing the applicable requirements of sections 110(a)(2)(A)-(H), (J)-(M), except for section 110(a)(2)(C)

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<sup>1</sup> On July 17, 2012, Kentucky withdrew its September 8, 2009, 110(a)(1)-(2) infrastructure submission addressing the 8-hour ozone, PM<sub>2.5</sub> and Lead NAAQS. Kentucky replaced its September 8, 2009, 110(a)(1)-(2) infrastructure submission with a submission provided on July 17, 2012.

nonattainment area requirements and section 110(a)(2)(D)(i) visibility requirements. The rulemaking proposed through today's action is consistent with the terms of this consent decree.

Today's action is proposing to conditionally approve Kentucky, North Carolina and Tennessee's infrastructure submissions for the 1997 annual and 2006 24-hour PM<sub>2.5</sub> NAAQS addressing CAA section 110(a)(2)(D)(i)(II), related to adequate provisions prohibiting emissions that interfere with any other state's required measures to prevent significant deterioration of its air quality (referred to as "prong 3"). EPA is taking action on Kentucky, North Carolina and Tennessee's infrastructure submissions for the 1997 and 2006 PM<sub>2.5</sub> NAAQS for sections 110(a)(2)(A)-(F), (H), (J)-(M), including other portions of section 110(a)(2)(D)(i) in separate actions from today's rulemaking.

## **II. What are States Required to Address under Sections 110(a)(2)(D)?**

Section 110(a)(2)(D) has two components, 110(a)(2)(D)(i) and 110(a)(2)(D)(ii). Section 110(a)(2)(D)(i) has four components that require SIPs to include provisions prohibiting any source or other type of emissions activity in one state from: 1) contributing significantly to nonattainment maintenance of the NAAQS in another state, and 2) interfering with maintenance of the NAAQS in another state (collectively codified as 110(a)(2)(D)(i)(I)); and from interfering with measures required to 3) prevent significant deterioration of air quality in another state, or 4) protect visibility in another state (collectively codified as 110(a)(2)(D)(i)(II)). Section 110(a)(2)(D)(ii) requires SIPs to include provisions insuring compliance with sections 115 and 126 of the Act, relating to interstate and international pollution abatement.

In previous actions, EPA has already taken action to address Kentucky, North Carolina and Tennessee's SIP submissions related to sections 110(a)(2)(D)(i)(I) and 110(a)(2)(D)(ii) for

the 1997 annual and 2006 24-hour PM<sub>2.5</sub> NAAQS. Today's proposed rulemaking relates only to requirements related to prong 3 of section 110(a)(2)(D)(i), which as previously described, requires that the SIP contain adequate provisions prohibiting emissions that interfere with any other state's required measures to prevent significant deterioration of its air quality.<sup>2</sup> More information on this requirement and EPA's rationale for today's proposed conditional approvals for this requirement for purposes of the 1997 annual and 2006 24-hour PM<sub>2.5</sub> NAAQS is provided below.

### **III. What is EPA's Analysis of How Region 4 States Addressed Element (D)(i)(II) Related to PSD?**

EPA's September 25, 2009, memorandum entitled "Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 2006 24-Hour Fine Particle (PM<sub>2.5</sub>) National Ambient Air Quality Standards" provided guidance on addressing the infrastructure requirements required under sections 110(a)(1) and 110(a)(2) of the CAA with respect to the 2006 24-hour PM<sub>2.5</sub> NAAQS. The 2009 Guidance describes that a state's PSD permitting program is the primary measure that such state must include in its SIP to prevent significant deterioration of air quality in accordance with prong of section 110(a)(2)(D)(i). EPA has preliminarily determined that Kentucky, North Carolina and Tennessee's prong 3 infrastructure submissions, with the exceptions noted below are consistent with the 2009 Guidance, when considered in conjunction with each State's PSD program.

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<sup>2</sup> EPA's action today does not address the other requirements of section 110(a)(2)(D)(i).



At present, there are four regulations that are required to be adopted into the SIP to meet PSD-related infrastructure requirements. *See* Sections 110(a)(2)(C), prong 3 of 110(a)(2)(D)(i), and 110(a)(2)(J) of the CAA. These regulations are: 1) “Final Rule To Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2; Final Rule” (November 29, 2005, 70 FR 71612) (hereafter referred to as the “Phase II Rule”); 2) “Implementation of the New Source Review Program for Particulate Matter Less Than 2.5 Micrometers; Final Rule” (May 16, 2008, 73 FR 28321) (hereafter referred to as the “NSR PM<sub>2.5</sub> Rule”); 3) “Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Final Rule” (June 3, 2010, 75 FR 31514) (hereafter referred to as the “GHG Tailoring Rule”); and, 4) “Final Rule on the Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers (PM<sub>2.5</sub>) – Increments, Significant Impact Levels (SILs) and Significant monitoring Concentration (SMC); Final Rule” (October 20, 2010, 75 FR 64864) (hereafter referred to as the “PM<sub>2.5</sub> PSD Increment-SILs-SMC Rule (only as it relates to PM<sub>2.5</sub> Increments)”). Specific details on these PSD requirements can be found in the respective final rules cited above, however, a brief summary of each rule is provided below.

First, as part of the framework to implement the 1997 8-hour ozone NAAQS, EPA promulgated an implementation rule in two phases.<sup>3</sup> The Phase 2 Rule is relevant to today’s action. Among other changes, this rule revised the PSD regulations to recognize nitrogen oxide (NO<sub>x</sub>) as an ozone precursor.

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<sup>3</sup> EPA promulgated the Phase I Rule on April 30, 2004 entitled “Final Rule To Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 1.” *See* 69 FR 23951.

Second, the NSR PM<sub>2.5</sub> Rule revised the NSR program to establish the framework for implementing preconstruction permit review for the PM<sub>2.5</sub> NAAQS in both attainment areas and nonattainment areas. These PSD requirements included: 1) a provision that NSR permits address directly emitted PM<sub>2.5</sub> and precursor pollutants; 2) a requirement establishing significant emission rates for direct PM<sub>2.5</sub> and precursor pollutants (including sulfur dioxide (SO<sub>2</sub>) and NO<sub>x</sub>); 3) exceptions to the grandfathering policy for permits being reviewed under the PM<sub>10</sub> surrogate program; and, 4) a revision that states account for gases that condense to form particles (condensables) in PM<sub>2.5</sub> and PM<sub>10</sub> emission limits in PSD permits.

Third, in the GHG Tailoring Rule, EPA tailored the applicability criteria that determine which GHG emission sources become subject to the PSD program of the CAA. *See* 75 FR 31514.

Lastly, the PM<sub>2.5</sub> PSD Increment-SILs-SMC Rule (only as it relates to PM<sub>2.5</sub> increments) provided additional regulatory requirements under the PSD program regarding the implementation of the PM<sub>2.5</sub> NAAQS for NSR by specifically establishing PM<sub>2.5</sub> increments pursuant to section 166(a) of the CAA to prevent significant deterioration of air quality in areas meeting the NAAQS.

The PSD requirements promulgated in the aforementioned regulations establish the framework for a comprehensive SIP PSD program which EPA has determined are necessary to comply with prong 3 of section 110(a)(2)(D)(i). The following table shows when EPA approved the incorporation of the aforementioned regulations in each of the States' implementation plans:

State	Phase II Rule	GHG Tailoring Rule	NSR PM <sub>2.5</sub> Rule	PM <sub>2.5</sub> PSD Increment-SILs-SMC Rule (only as it relates to PM <sub>2.5</sub> increments)
Kentucky	9/15/20120 75 FR 55988	12/29/2010 75 FR 81868	See Below	See Below
North Carolina	8/10/2011 76 FR 36875	10/18/2011 76 FR 64240	See Below	See Below
Tennessee	2/7/2012 77 FR 6016	2/28/2012 77 FR 11744	7/30/2012 77 FR 44481	See Below

**Kentucky:** On July 3, 2012, the Commonwealth submitted a commitment letter to EPA requesting conditional approval of outstanding requirements related to the NSR PM<sub>2.5</sub> Rule and PM<sub>2.5</sub> PSD Increment-SILs-SMC Rule. In this letter, Kentucky provided a schedule as to how the Commonwealth will address outstanding requirements related to the NSR PM<sub>2.5</sub> Rule and PM<sub>2.5</sub> PSD Increment-SILs-SMC Rule. EPA determined that this letter of commitment met the requirements of section 110(k)(4) of the CAA, and accordingly, EPA conditionally approved the Commonwealth's NSR PM<sub>2.5</sub> Rule and PM<sub>2.5</sub> PSD Increment-SILs-SMC Rule submission on October 3, 2012. *See* 77 FR 60307. EPA is relying upon this earlier commitment to address the NSR PM<sub>2.5</sub> Rule and the PM<sub>2.5</sub> PSD Increment-SILs-SMC Rule (only as it relates to PM<sub>2.5</sub> increments) as the basis for conditionally approving Kentucky's infrastructure SIP as it relates to prong 3 of section 110(a)(2)(D)(i). If the Commonwealth fails to submit these revisions by October 3, 2013, today's conditional approval will automatically become a disapproval on that date and EPA will issue a finding of disapproval. EPA is not required to propose the finding of disapproval. If the conditional approval is converted to a disapproval, the final disapproval

triggers the Federal Implementation Plan requirement under section 110(c). However, if the State meets its commitment within the applicable timeframe, the conditionally approved submission will remain a part of the SIP until EPA takes final action approving or disapproving the new submittal.

**North Carolina:** On July 10, 2012, North Carolina submitted a commitment letter to EPA requesting conditional approval of outstanding requirements related to the NSR PM<sub>2.5</sub> Rule and the PM<sub>2.5</sub> PSD Increment-SILs-SMC Rule. In this letter, North Carolina provided a schedule for the State to address outstanding requirements related to the NSR PM<sub>2.5</sub> Rule and the PM<sub>2.5</sub> PSD Increment-SILs-SMC Rule. EPA determined that this letter of commitment met the requirements of section 110(k)(4) of the CAA, and accordingly, EPA conditionally approved North Carolina's NSR PM<sub>2.5</sub> Rule submission on October 16, 2012 (77 FR 63234). EPA is relying upon this earlier commitment to address the NSR PM<sub>2.5</sub> Rule and the PM<sub>2.5</sub> PSD Increment-SILs-SMC Rule (only as it relates to PM<sub>2.5</sub> increments) as the basis for conditionally approving North Carolina's infrastructure SIP as it relates to prong 3 of section 110(a)(2)(D)(i). If North Carolina fails to submit these revisions by October 16, 2013, today's conditional approval will automatically become a disapproval on that date and EPA will issue a finding of disapproval. EPA is not required to propose the finding of disapproval. If the conditional approval is converted to a disapproval, the final disapproval triggers the Federal Implementation Plan requirement under section 110(c). However, if the State meets its commitment within the applicable timeframe, the conditionally approved submission will remain a part of the SIP until EPA takes final action approving or disapproving the new submittal.

**Tennessee:** On October 4, 2012, Tennessee submitted a commitment letter to EPA requesting conditional approval of specific enforceable measures related to prong 3 of section 110(a)(2)(D)(i); specifically, the PM<sub>2.5</sub> PSD Increment-SILs-SMC Rule (only as it relates to PM<sub>2.5</sub> increments). In this letter, Tennessee described how the State has already scheduled a public hearing/comment period and anticipates providing a final version as soon as possible after the public hearing to be scheduled on or before December 4, 2012. Consistent with section 110(k)(4) of the Act, EPA is relying upon this commitment by Tennessee to address the PM<sub>2.5</sub> PSD Increment-SILs-SMC Rule (only as it relates to PM<sub>2.5</sub> increments) as the basis for conditionally approving Tennessee's infrastructure SIP as it relates to prong 3 of section 110(a)(2)(D)(i). If Tennessee fails to submit these revisions within one year from the date of conditional approval, today's proposed conditional approval will automatically become a disapproval on that date and EPA will issue a finding of disapproval. EPA is not required to propose the finding of disapproval. If the conditional approval is converted to a disapproval, the final disapproval triggers the Federal Implementation Plan requirement under section 110(c). However, if the State meets its commitment within the applicable timeframe, the conditionally approved submission will remain a part of the SIP until EPA takes final action approving or disapproving the new submittal.

Kentucky, North Carolina and Tennessee have, or will have pending the commitments described above, demonstrated that major sources in each state are subject to PSD permitting program to comply with the prong 3 of section 110(a)(2)(D)(i) of the CAA for the PM<sub>2.5</sub> NAAQS. Therefore EPA has made the preliminary determination to conditionally approve that Kentucky, North Carolina and Tennessee's SIP and practices are adequate for insuring

compliance with the applicable PSD requirements relating to interstate transport pollution for the 1997 and 2006 PM<sub>2.5</sub> NAAQS.

#### **IV. Proposed Action**

As described above, EPA is proposing to conditionally approve the Kentucky, North Carolina and Tennessee infrastructure SIP submissions as addressing prong 3 of section 110(a)(2)(D)(i) of the CAA for both the 1997 and 2006 PM<sub>2.5</sub> NAAQS. Specifically, EPA is proposing to conditionally approve the portion of the States' infrastructure SIP section 110(a)(2)(D)(i) submissions as they relate to provisions prohibiting emissions that interfere with any other state's required measures to prevent significant deterioration of its air quality because they are consistent with section 110 of the CAA.

#### **V. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.





## **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate Matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: November 21, 2012.

A. Stanley Meiburg,

Acting Regional Administrator,  
Region 4.

[FR Doc. 2012-29370 Filed 12/04/2012 at 8:45 am; Publication Date: 12/05/2012]